

**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK**

CONVERGEN ENERGY LLC, et al.,

Plaintiffs,

v.

CASE NO.: 1:20-CV-03746 (LJL)

STEVEN J. BROOKS, et al.,

Defendants.

**SPECIALLY APPEARING DEFENDANTS' PROPOSAL
FOR BRIEFING AND PRELIMINARY INJUNCTION HEARING**

Specially Appearing¹ Defendants Steven J. Brooks, NianticVista Energy, LLC, Gregory Merle, and Riverview Energy Corporation make the following proposals² concerning briefing and the format for the June 2 Preliminary Injunction Hearing in this matter:

- Defendants' briefing and materials in opposition to Plaintiffs' motion for a preliminary injunction due by 5 p.m. central (6 p.m. eastern) on Tuesday, May 26;
- Plaintiffs' reply brief and all further materials in support of Plaintiffs' motion due by 5 p.m. central (6 p.m. eastern) on Friday, May 29;
- Plaintiffs' motion to be decided on Declarations without live testimony, with the Court to hear argument by telephonic conference on June 2, 2020, beginning 2 p.m. eastern (1 p.m. central).

¹ None of the Defendants for which undersigned counsel is specially appearing have been served with the Complaint or the waiver of service form counsel requested under Fed. R. Civ. P. 4. Counsel specially appears for the purpose of defending against the preliminary injunction sought by Plaintiffs, with the intent to contest jurisdiction and venue in this Court at an appropriate time after being served, and is appearing without waiving the right to contest jurisdiction and venue, including but not limited to the right to move to compel arbitration.

² Defendants made this proposal to Plaintiffs' counsel and offered to participate in a telephonic meet and confer conference on May 21 to discuss. Plaintiffs' counsel responded that it sought information on the server and domain issues addressed in the motion prior to having a meet and confer. Defendants provided the requested information on the afternoon of May 21, and requested Plaintiffs to provide a time for a call. Plaintiffs responded by asking for times on the morning of May 22 for a meet and confer conference. Defendants look forward to that discussion, but are filing this proposal to comply with the Court's oral Order at the May 19 TRO Hearing that the parties submit a briefing schedule by 5 p.m. eastern on May 21, 2020.

This will accommodate the Memorial Day Holiday and give Defendants seven calendar days from the filing of Plaintiffs' motion to submit their opposition, and give Plaintiffs three days to file a reply. Given the number of parties and the difficulties in conducting a contested evidentiary hearing by videoconference, Defendants suggest that the June 2 Hearing be reserved for telephonic oral argument.

Dated this 21st day of May, 2020

By: s/ Ryan M. Billings
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